



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable John M. Winters
Executive Director
State Department of Public Welfare
Austin, Texas

Dear Mr. Winters:

Opinion No. 0-7158

Re: A gift to the State Department of Public Welfare cannot be distributed or paid to recipients of the Old Age Assistance, if said gift increases the apportionment beyond the \$2,200,000.00 per month appropriated by the Legislature.

We have received your letter which informs us that the Department of Public Welfare has accepted a gift of \$2000.00, and that same had been deposited by the State Treasurer in the State Old Age Assistance Fund. You ask this question:

"In the event that the payments for any given month should exceed \$2,200,000 as the State's portion of the total payments for old age assistance purposes, may the Department use the additional \$2,000 which was received as a gift for the purpose of paying old age assistance grants?"

We are not certain that we have construed your question correctly. We assume that you desire to know whether the \$2000.00 gift may be distributed in addition to the \$2,200,000.00 appropriated by the Legislature to be paid each month. Our answer is based upon this assumption.

The \$2000.00 gift has, as you state, been deposited by the State Treasurer in the State Old Age Assistance Fund. This \$2000.00 has, therefore, become a part of said Fund, and may be paid out only under the provisions of the Appropriation Act. Regardless of the source of the funds on deposit in the State Old Age Assistance Fund in the Treasury, you are, under the Appropriation Act of the last Legislature, authorized to pay therefrom not exceeding \$2,200,000.00 per month. If it takes all, or any portion of the \$2000.00 that has been deposited as a gift to make available a sufficient amount to pay

said total \$2,200,000.00 any month, then all, or any portion, of said \$2000.00 needed could be withdrawn from said Fund to pay the Old Age Assistance up to, but not exceeding, the \$2,200,000.00 per month.

The Constitution forbids any money being withdrawn from the State Treasury except under a specific appropriation made by the Legislature. As above stated, the Legislature has appropriated out of said Fund not exceeding \$2,200,000.00 each month, and this is the limitation placed upon those who are administering said Fund.

It is our opinion that regardless of where the money comes from, whether from taxation or from gifts, that is on deposit in the State Old Age Assistance Fund, you are authorized to apportion out of said Fund not exceeding the \$2,200,000.00 per month, but you may, if there is that amount on deposit in said Fund, apportion said \$2,200,000.00 each month to the recipients thereof.

Very truly yours

ATTORNEY GENERAL OF TEXAS

John H. Winters

By

Geo. W. Barcus

Geo. W. Barcus
Assistant

GWP-MR

